

Docket No.: ULLEIN
Serial No.: 09/925,013

REMARKS

The last Office Action of November 3, 2003 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-24, 27-30, 32 and 33 are pending in the application. No claims have been amended, canceled or added.

Claims 1-4, 6-15, 17 and 18 stand rejected under 35 U.S.C. §102(b) as being anticipated by Stief, of record.

Claims 19-22, 27-30, 32 and 33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Stief in view of Smith of record.

It is noted with appreciation that claims 5, 16, 23 and 24 are indicated allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Record is also made of a telephone interview between applicants' representative and the Examiner which took place on December 11, 2003. The Examiner is thanked for her help and assistance as well as for the courtesies extended to Counsel at that time. During the course of the interview, possible incorporation of a limitation into the independent claims has been discussed, such as e.g. incorporation of "a check valve". However, applicants wish to defer amendments to these independent claims in view of the arguments presented below.

The Examiner interprets the Stief reference to include a leakage gap that can be reduced in size, when a pressure in the pressure chamber increases. In arriving at this conclusion, the Examiner opined that the passageway extending between the chambers 8 and 9 and containing a check valve 7 constitutes a leakage gap, in addition to the labeled leakage gap 14 between the piston and the housing. The Examiner then further contends that since the check valve closes the passageway between the chambers 8 and 9, a reduction in size of the leakage gap is realized because the hydraulic fluid can now flow only through the leakage gap 14. This interpretation of the Stief reference is ill-advised for the following reasons:

The check valve 7 is a device which opens the passageway between the chambers 8 and 9 to allow **inflow** of hydraulic fluid into the pressure chamber 8 as the piston 2 extends, while **inhibiting** an outflow when the pressure in the pressure chamber 8 increases as a consequence of the retraction of the piston. No hydraulic fluid is intended to ever flow out or escape from the pressure chamber. Any escape of fluid during operation of the Stief tensioner is realized only and exclusively through the leakage gap 14. The term "leakage" is a definite term in the field concerned and relates to an act or process by which a fluid **escapes from** somewhere to somewhere. Reference is made here, e.g., to Webster's Third New International Dictionary, 1986, page 1285, copy enclosed. To interpret the passageway between the chambers 8 and 9 as "leakage gap", as suggested by the Examiner, i.e. a flow of fluid out of the chamber 8 through the passageway between the chambers 8 and 9 would contradict the teaching of Stief

and would in fact render the tensioner useless. The purpose of the check valve in Stief, like the purpose of the check valve of the present invention, is merely to allow flow of fluid into the pressure chamber 8 in response to an underpressure in this chamber in relation to the pressure in the chamber 9, when the piston moves out. Again, nothing flows out through this passageway, and therefore to equate this passageway with a leakage gap through which fluid can only flow out is misguided.

Unlike Stief, the present invention provides an arrangement by which the escape of fluid from the pressure chamber can be reduced by providing the combinations, as set forth in independent claims 1, 28 and 32.

In view of the above, each of the presently pending claims in this application is believed to be in immediate conditions for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Respectfully submitted,

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